

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

MDL No. 1456

THIS DOCUMENT RELATES TO:  
  
GSK SETTLEMENT

CIVIL ACTION: 01-CV-12257-PBS  
  
Judge Patti B. Saris

**AFFIDAVIT OF ERIC J. MILLER REGARDING THE DISTRIBUTION OF  
ADDITIONAL FUNDS TO CONSUMERS IN THE GSK SETTLEMENT**

STATE OF FLORIDA )  
                      )  
                      ) ss:  
COUNTY OF PALM BEACH )

The undersigned, Eric J. Miller, being duly sworn, deposes and states as follows:

1. I am a Managing Senior Project Administrator at Rust Consulting, Inc. (formerly Complete Claim Solutions, LLC. (“CCS”)). CCS was appointed the Claims Administrator in the GlaxoSmithKline Settlement (the “Settlement”) by Order Granting Preliminary Approval of the GlaxoSmithKline Settlement, Certifying Class for Purposes of Settlement, Directing Notice to the Class and Scheduling Fairness Hearing (“Preliminary Approval Order”) dated November 15, 2006. I am over 21 years of age and am not a party to the Action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.
2. I submit this affidavit in order to provide the Court and the parties with information about the distribution of additional funds to Consumers in accordance with Class Plaintiffs’ Report dated July 24, 2009 (the “Report”) [Docket No. 6300] and the Order dated August 4, 2009 (the “Order”).
3. The Current Valid Claims are comprised of 3,192 claimants who received payments for their out-of-pocket expenses for Class A drugs and their recognized claim amount for Class B

drugs. In accordance with the Order, these claims were recalculated to reflect payment to these claims in an amount three times the original award amount. Checks were issued to this group of claimants reflecting the ‘new’ award amount minus the original award, resulting in an additional distribution to this group of consumers of \$3,687,856.55.

4. In accordance with the Order, CCS mailed detailed letters to 41 claimants whose claims were unsigned. A sample of the letter is attached as Exhibit A. CCS also attempted to contact those claimants by telephone in an effort to assist the claimant in curing their deficiency. Of the 41 claimants whose claims were unsigned, 25 claimants cured their deficiency and 16 remain deficient. Payment of these 25 claims will result in an additional distribution of \$14,540.34 to these consumers. CCS is in the process of issuing and mailing checks to these claimants.

5. As indicated in the Report, there were approximately 6,420 invalid claims. CCS issued the minimum payment of \$100 to each of the 6,420 invalid claims along with an explanation of what the check was for and how the claimant could obtain additional funds by filing a new claim. A sample of the check with the explanation is attached as Exhibit B. Of the 6,420 checks issued to this group, a number of them remain uncashed.

6. Of the 6,420 claimants whose claims were invalid, 582 claimants requested claim forms and 510 filed new claims. It should be noted that of the 510 new claims filed, 229 claimants remain ineligible; 62 claims calculated to an amount less than the already distributed \$100; and Of the 219 remaining claims, 166 claims are eligible and 53 claims are currently under audit review. (See ¶ 7, below.) Attached as Exhibits C and D are the listings of the eligible claims and under audit review claims, respectively.

7. In an effort to maintain consistency and fairness as well as our normal claim processing procedures, the 18 claims which sustained an award amount in excess of \$10,000 will be sent a letter which will require additional documentation to be submitted to substantiate their claimed purchases. We also selected several additional claims for further review in order to check the integrity of their claims documentation. A sample of the letter to be sent is attached as Exhibit E. CCS anticipates these audits will be complete by late April 2010.

8. The total additional distribution of the 219 new consumer claimants, assuming all 18 claims greater than \$10,000 are found to be valid and payable and that no other audited claims are disallowed, will be \$1,262,401.49.

9. As of March 10, 2010, there remains a balance of approximately \$7,294,382.90 for distribution to Consumers. Payment of an additional \$1,262,401.49 to the consumers who cured prior deficiencies and who have submitted new claims will result in a balance of approximately \$6,031,981.41. Once all checks have been issued and have been either cashed or outstanding for 90 days, CCS will be in a position to determine the exact amount of any monies remaining in the consumer settlement pool.

10. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.



Eric J. Miller

Sworn to before me this

1st day of April, 2010



Lara I. Kashdan

Notary Public



LARA I. KASHDAN  
NOTARY PUBLIC - STATE OF FLORIDA  
COMMISSION # D0948157  
EXPIRES 12/29/2013  
BONDED THRU 1-888-NOTARY1

## **EXHIBIT A**



GSK AWP Litigation Administrator  
c/o Complete Claim Solutions, LLC  
P.O. Box 24743  
West Palm Beach, FL 33416  
Toll-free Telephone: 1-888-568-7645

September XX, 2009

RESPONSE DUE DATE: October XX, 2009

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«compute\_0011»  
«compute\_0012», «compute\_0013» «compute\_0014»

REQUEST FOR INFORMATION - Claim No. «clm\_no»

Dear Claimant:

We received and processed your claim in the GlaxoSmithKline AWP Settlement. Unfortunately, there is a problem with your claim.

You did not sign the Proof of Claim form.

The U.S. District Court has approved a payment to you in the amount of \$ <<CLS MBR NAME>>. In order to receive this money you must sign and date this letter where indicated below and return it to the address listed above by the October XX, 2009. Your signature will be treated as the proper execution of your previously submitted Proof of Claim, which will allow us to send you a check immediately.

If for any reason you are unable to provide your signature on this form (for example because of illness or because the person to whom this letter is addressed has passed away), please provide this information in the space provided below and return it to us.

If you do not respond in some way your claim will be disallowed and you will not receive any money.

If you have any questions, please call us at 1-888-568-7645. You can review the court Order authorizing this payment on the internet at [www.gsksettlement.com](http://www.gsksettlement.com).

We have provided a self-addressed postage paid envelope with this letter in order to make it more convenient for you to respond.

Sincerely yours,

Claims Administrator

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Claimant Signature

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Date

IF YOU ARE UNABLE TO PROVIDE THE REQUIRED SIGNATURE, PLEASE TELL US WHY IN THE SPACE BELOW:

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## **EXHIBIT B**

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IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION  
GLAXOSMITHKLINE  
c/o Complete Claim Solutions, LLC  
P.O. Box 24743  
West Palm Beach, FL 33416

<<Chk Date>>  
Claim Number: <<clm\_no>>



(this bar code includes clmt\_idno then a dash then the chk no)

<<Clmnt\_Idno>> <<chk no>> <<seq no>>

<<NA1>>

<<NA2>>

<<NA3>>

<<NA4>>

<<NA5>>

<<city>>, <<state>> <<zip10>> OR <<country>>

**NOTICE OF SECOND DISTRIBUTION FROM NET SETTLEMENT FUND**

Dear Class Member –

Please find enclosed a check for \$100.00 from the Settlement in the GSK AWP Litigation. This letter and check are sent in response to your submission of a claim originally deemed ineligible due to not properly filling out your claim. If you believe you are eligible for more than the enclosed check of \$100 you may submit a second claim form.

If you need assistance to obtain or to fill out a claim form please contact the settlement administrator at 1-888-568-7645 or see the court approved website at [www.gsksettlement.com](http://www.gsksettlement.com). You must have the claim postmarked by

Please note that you must cash the enclosed check within six months (90 days) of the date of the check.

Sincerely yours,

Claims Administrator

Detach and sign the back of this instrument. In doing so, you are indicating that you have read and understand the terms and conditions of the settlement and agree to be bound by them.

IN RE PHARMACUETICAL INDUSTRY  
AVERAGE WHOLESALE PRICE LITIGATION  
GLAXOSMITHKLINE  
c/o Complete Claim Solutions, LLC  
P.O. Box 24611  
West Palm Beach, FL 33416

CITIZENS BANK

29-1310  
0213

<<Chk no>>

Date	Control Number	Amount
<<Chk Date>>	<<Claim_no>>	<<chk Amt>>

CASH PROMPTLY - VOID AND SUBJECT TO RE-DISTRIBUTION 90 DAYS AFTER  
ISSUE DATE - NOT VALID OTHER THAN AMOUNT \$<<chk Amt>>  
Payee's signature required on back in order for this check to be valid

Pay

Payable to: <<NA1>>  
<<NA2>>

## **EXHIBIT C**

<b>Claim No.</b>	<b>Name</b>	<b>Award Amount</b>
407	NANCY LUTTRELL	\$ 0.50
1484	ROSALIND S MARGULIES	980.00
2261	KIM D JOHNSON	44.75
2594	PAULA J BARTOSEVICH	3,577.50
2618	DOROTHY L SCHNEIDER	152.00
2792	FRANK M LARA	90.60
2806	ANNETTE J BROOKS	228.15
3098	MAYRA ROQUE OSORIO	2,198.43
3927	JOE L QUINN	450.00
4257	DAVID COLUMBUS	2,092.50
4650	DOROTHY R BROWN	900.00
4788	JACQUELINE M ADAMS	1,123.88
5197	EILEEN ALLENDER	90.00
5324	BETTY FRAZIER	240.00
6294	LIZBETH I VIERA	273.59
6686	SARA P OWENS	12.75
6894	RUTH A PENDERGRAFT	40.65
6928	NELINDA A RODRIGUEZ	40.25
7326	PATRICIA A DADICH	4,544.78
8482	BRENDA F FORD	331,253.89
8762	ANNIE W HOUSE	215.22
9367	ROSIE M DAILEY	6,340.10
9601	MARK GADLIN	1,145.25
10186	MARTICIA SCHRADER	161.89
12106	BERTHA L NORTON	439.60
12395	PEARL KERSEY	450.00
12832	MARILYN ARRINGTON	310.63
12996	GERALD F HESLIN	1,107.90
13456	PEARL WRIGHT	225.00
13475	CEDRIC C MITCHELL	2,250.00
13477	MANDA V WILLIAMS	1,700.55
13479	MARILYN TYE	84.76
13483	DEREK V MOTT	7,607.46
13486	WILLIAM D FERGUSON	1,434.00
13487	ANTHONY C PIERRE SR	126.00
13488	CARMEN MCLAURIN	2,167.50
13491	CARRIE M GRIGGS	1,795.05
13493	KATHLEEN IMBERT	648.33
13495	SHIQUITA FRIESON	968.15
13499	JOSHUA FRIESON	37.50
13501	ODESSA WHITERS	101.00
13505	GEORGE F JUMP	1,260.00
13508	CHARLES M KEMP	650.00
13509	JOANNA M LAWSON	2,016.95
13510	C J PERSON	650.00
13512	VERONICA B MORRISON	223.60

<b>Claim No.</b>	<b>Name</b>	<b>Award Amount</b>
13527	SUSANA R STASSI	278.00
13529	DAVID W SHEPARD	302.60
13534	JANET C PALMER	196.95
13539	ELLA L COLEY	13.50
13544	CHARLOTTE WILLIAMS	2,300.00
13553	REBECCA SHORT	48.50
13561	GEORGE FRANZ	1,743.95
13566	LEETA M PHILLIPS	224.00
13572	MICHAEL D COOLEY	215.37
13589	BOBBIE W PHILLIPS	370.88
13590	CALEB CUNNINGHAM	171.13
13592	LINDA S JIMENEZ	1,331.01
13593	ZATIE L DONALD	8,902.37
13604	BRENDA POMERLEAU	2,556.03
13605	JEWEL BALDWIN	10.40
13612	NEIL M CLARK	2,600.00
13620	GEORGE L MITCHELL	1,341.20
13623	JOYLIE V WHITE	2.60
13633	HECTOR E COIRA	5,564.05
13637	GALE PINK	9,350.00
13646	RICHARD C GILLINGHAM	209.00
13647	EDNA J BAILEY	9,059.00
13649	GAYLE D BRIM	189.33
13659	CHARLES W SMALLWOOD	300.95
13661	HELEN DAVIS	220.52
13666	DULCENA T MARDIS	1,973.75
13668	NITA F ARMSTRONG	115.70
13676	MARGREE ADAMS	5.41
13677	JOHN L HROVAT	39.00
13678	C PAULINE DYER	182.00
13680	FLORA L MCCARTY	1,571.01
13684	MARCI DAMBERT	207.50
13694	LORA T SINGLETON	125.00
13696	THELMA L MOSS	261.41
13697	TRACEY PAYTON	422.00
13711	MILDRED T MITCHELL	1,175.00
13713	LINDA L FALLETTE	240.00
13723	EARNESTINE LANGLEY	30.61
13725	MARY BOYD	582.80
13730	DIANE M MUNSON	95.00
13731	NANCY L ROBINSON	1,419.50
13737	SANDRA F CLEVINGER	549.89
13738	CECIL E CORGEY	56.19
13741	KATHY S OPARA	423.50
13742	CLARENCE W VAUGHN	29.68
13746	RAYMOND A SAYLES	1,539.05

<b>Claim No.</b>	<b>Name</b>	<b>Award Amount</b>
13748	MARY EASON	3,294.17
13749	BOBBY J FORD	0.62
13750	KENNETH L ARNOLD	443.00
13756	ELLEN FERRELL	130.40
13759	LENA FUMANTI	2.00
13765	GAIL M QUENZER	1,196.00
13768	KAREN D CLAUSEN	571.30
13769	LOTTIE M SCOTT	4,520.00
13783	KAY KARLEE FLOM	310.40
13787	PATRICIA L RICHARDS	75.00
13793	PATSY K WILSON HOOD	1,097.00
13796	ANTHONY F ALTIERI	50.00
13799	ROBERT A EUSTICE	76.01
13803	CAROLYN LLOYD	7,500.00
13804	BETTY J BETZ	20.00
13806	RICHARD K CARDER	450.50
13809	TANYA R HOLIDAY	112.50
13813	JEROME B RICHARDS	50.00
13819	JORGE L SANTIAGO	431.43
13832	DAISY L WRIGHT	158.20
13833	PATRICIA GRAYSON	172.95
13837	CLARENCE MILLER	350.00
13841	JIMMY J RUMFELT	511.40
13850	ANGELINA S HAGGINS	260.00
13852	HELEN L LOVINGOOD	110.00
13855	LOUISE GATLIN	1,650.00
13857	EMMA S WHITLOW	53.31
13860	ROGER TUSSEY	461.60
13863	DEBRA HIGH	3,586.40
13866	PHYLLIS M HENNING	34.70
13872	MARY L WHITE	600.00
13874	VIOLA M PASS	623.90
13877	ANTHONY WALTON	5,381.65
13881	VIRGINIA C VOCE	102.50
13885	BABY B ANDERS	567.05
13886	RICHARD T JENKINS SR	125.60
13892	EDWIN MERCADO AREVALO	872.00
13894	ANNIE M BYRD	50.75
13895	CHARLES E DUNHAM	325.19
13900	DESSIE M LEE	845.00
13904	PATRICIA WILLIAMS	1,880.00
13905	JAMIE L BUTTS	65.00
13908	REBECCA J NOLEN	43.80
13911	IDEILIA NEAL	2,330.00
13913	MARY JANE PETERS	28.90
13922	JACQUELINE PARKER	809.75

<b>Claim No.</b>	<b>Name</b>	<b>Award Amount</b>
13924	WILLIE C WILLIAMS	161.00
13929	RUTH SCHWARTZ	305.00
13930	LINDA GONZALEZ	149.85
13938	ZAKARRI DOWD	1,363.65
13945	NORMA MONTOYA	2,900.00
13953	DOROTHY MCGOWAN	8,015.10
13955	MILDRED GRIFFIN	99.00
13963	CHRISTHIA TAYLOR	1,007.00
13966	MYRA L GOODSON	81.72
13970	ETHERIDGE AYERS SR	2,293.36
13971	LENA M BELLON	542.33
13973	MARY BOND	332.00
13975	BARBARA HARMON	359.00
13980	BRIAN A HAYES	9,945.00
13983	NICHOLAS IMBRIALE	1,954.84
13985	MICHAEL COLE	470.00
13990	ANTIONETTE RICHEY	260.00
13995	JESSIE TYLER	68.60
14003	TOMMY RAY DOYLE	180.00
14010	SIDNEY BUCKNER	450.00
14013	CAROLYN DAVIS	119.23
14016	ANNIE W HOWEL	409.67
14023	BOBBY WISE	12,081.18
14031	RUBEN I MERCADO	2,049.30
14032	ADELINE GRENON	366.90
14044	VICKI MCLAIN	912.50
14048	OTIS HENSON	1,242.00
14050	THOMAS A BOYD	26.00
<b>166 Claims</b>	<b>TOTAL</b>	<b>\$ 531,470.21</b>

## **EXHIBIT D**

<b>Claim No.</b>	<b>Name</b>	<b>Award Amount</b>
1918	GLORIA G BELL	\$ 343.40
9386	RAFAEL LOPEZ	5,803.61
13343	TINA L KRANC	10,626.90
13489	REMONA LEWIS	3,803.40
13490	GLORIA D HAYES	15,000.00
13500	CHARLINE PAYNE	17,503.52
13515	BLAIR SMITH	5,300.00
13545	RODERICK JONES	3,500.00
13547	JOSE LAMA	20,274.00
13599	JULIA B NEOELS	3,136.20
13607	CHARLES J CONTEE	108,425.00
13618	WALTER A CORLEY JR	2,430.00
13621	SHIRLEY J HACKETT	5,732.00
13622	JANNIE BELL	2,422.50
13626	VALERIE IVY	109,790.00
13628	JOHN L WILSON II	3,200.00
13631	CHARLES HACKETT	2,151.00
13632	ALONZO BELL	5,184.00
13634	NATRON BELL	1,380.00
13638	LAWANDA KNOWLES	915.00
13663	CLIFFORD DIXON	2,557.50
13679	SABRINA DENISE CORLEY	2,385.00
13681	BEA G WEEMS	1,004.07
13686	MARY J BELL	3,159.00
13710	DORA M REGISTER	15,200.00
13715	LILLIAN DANIEL	2,700.00
13720	MARK CORLEY JR	3,435.00
13727	SHERONDA R CORLEY	2,394.00
13733	MARY C HOWZELL	2,625.00
13734	CARL ADDISON CORLEY	3,024.00
13735	SONYA HERNANDEZ CORLEY	1,927.50
13747	BERNICE B MOORE	3,467.00
13751	THERESA THOMAS	1,224.00
13757	MARK D CORLEY	7,297.50
13762	ANGELA WILLIAMS	3,405.00
13763	ROGER C HOWZELL JR	2,025.00
13764	ETHEL WRIGHT	1,323.00
13770	DEIDRE MITCHELL	13,182.21
13771	HERBERT H WRAMP	10,400.00
13773	KASHAY JACKSON	1,197.00
13811	DONALD M JESS	10,700.00
13812	SHERETTA L HACKETT JONES	2,452.50
13817	JOHN BRODIE	2,900.00
13867	RONALD SHELPAN	14,900.00
13912	MICHAEL L HILL	132,950.00
13942	JANET H REESE	13,210.25

Claim No.	Name	Award Amount
13946	AGATHA MOORE	6,180.00
13952	ARMANDO A ADAME	30,485.83
13976	PEARLINA WARD	58,100.00
14005	AVILDA QUINTANTA RIVERA	15,000.00
14017	JULIA J FORD	18,906.14
14020	WILLIE G WASHINGTON JR	794.25
14041	DEMITA ANDERSON	13,500.00
<b>53 Claims</b>	<b>TOTAL</b>	<b>\$ 730,931.28</b>

## **EXHIBIT E**

GSK AWP Litigation Administrator  
c/o Complete Claim Solutions, LLC  
P.O. Box 24743  
West Palm Beach, FL 33416  
Toll Free Telephone 1-888-568-7645

March XX, 2010

**RESPONSE DUE DATE: April XX, 2010**

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**REQUEST FOR ADDITIONAL INFORMATION \* \* \* Claim No. <<clm\_no>>**

Dear Claimant:

We have received and processed the Proof of Claim you submitted in the GlaxoSmithKline Settlement. You claimed purchases of GlaxoSmithKline drugs during the Medicare Class Period January 1, 1991 through January 1, 2005 or Private Payor Class Period January 1, 1991 through August 10, 2006 totaling \$<<amount\_fld>>.

The claim that you submitted was signed under penalty of perjury and in so doing you affirmed that all of the information provided in the claim was true, correct, and accurate. We write to request that you provide whatever documentation you may have or can obtain which supports the amount you have claimed.

Such proof might include copies of, among other things: (1) written prescriptions for the GlaxoSmithKline drugs; (2) pharmacy receipts or computer statements, cancelled checks, or credit card statements showing your payments for GlaxoSmithKline drugs; and/or (3) an Explanation of Benefits (EOB) from your insurance company that shows your co-payments for the medication. Please submit the requested documentation by the Response Due Date listed above.

If you wish to revise the amount of your claim, please provide the information requested on the backside of this letter, sign and date the letter, and return it to the address listed above not later than the Response Due Date listed above.

**FAILURE TO RESPOND TO THIS REQUEST MAY RESULT IN THE DISALLOWANCE OF YOUR CLAIM.**

Of course, if you have any questions about this, or if you are uncertain about what kinds of documents you might submit for our review, please call our toll-free number **1-888-568-7645**.

Sincerely yours,

Claims Administrator

## Instructions

Please write the total amount(s) spent on each GSK drug(s) during the class period(s) you made percentage co-payments for in the following table. If you cannot calculate the exact amount you paid out-of-pocket for each of the GSK AWP drugs, please estimate to the best of your ability.

	<b>Drug Name</b>	<b>Medicare Part B Class</b>	<b>Private Payor Class</b>
		<b>January 1, 1991 - January 1, 2005</b>	<b>January 1, 1991 – August 10, 2006</b>
<b>GSK Category A Drugs</b>	<b>Kytril Injection (gransetron HCL)</b>	\$	\$
	<b>Zofran Injection (ondansetron HCL)</b>	\$	\$
<b>GSK Category B Drugs</b>	<b>Alkeran (melphalan)</b>	\$	\$
	<b>Imitrex (sumatriptan)</b>	\$	\$
	<b>Kytril Tablets (gransetron HCL)</b>	\$	\$
	<b>Lanoxin (digoxin)</b>	\$	\$
	<b>Myleran (busulfan)</b>	\$	\$
	<b>Navelbine (vinorelbine)</b>	\$	\$
	<b>Retrovir (zidovudine)</b>	\$	\$
	<b>Ventolin (albuterol)</b>	\$	\$
	<b>Zofran Orals (ondansetron HCL)</b>	\$	\$
	<b>Zovirax (acyclovir)</b>	\$	\$
	<b>Zantac (rantiidine HCL)</b>	\$	\$